



INTERIOR BOARD OF INDIAN APPEALS

Estate of Clement H. Beargrease

55 IBIA 169 (07/03/2012)

Related Board case:

51 IBIA 312

48 IBIA 162



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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|----------------------|---|--------------------------------|
| ESTATE OF CLEMENT H. |) | Order Docketing and Dismissing |
| BEARGREASE |) | Appeal |
| |) | |
| |) | Docket No. IBIA 12-099 |
| |) | |
| |) | July 3, 2012 |

Barbara (Jacobson) Wienke (Appellant) appealed to the Board of Indian Appeals (Board) from an Order Denying Reopening on Referral from the [Board] (Reopening Order) entered on March 23, 2012, by Administrative Law Judge (ALJ) Richard J. Hough in the estate of Clement H. Beargrease (Decedent).¹ The Reopening Order was issued after the Board referred the matter to the Probate Hearings Division for further consideration pursuant to 43 C.F.R. § 30.242 (2010).² *See Estate of Clement H. Beargrease*, 51 IBIA 312 (2010). The ALJ declined to reopen the estate and add Appellant as an erroneously omitted heir for the purpose of distributing property added to the estate in 2010, finding that there was an insufficient demonstration of manifest injustice to justify reopening the estate.

As a preliminary matter, the Board ordered Appellant to complete service of her appeal on all interested parties (except for the ALJ, who had been served) or clarify that all interested parties had already been served, as required by 43 C.F.R. §§ 4.310(b) and 4.323, and to notify the Board that she had done so. The Board set a deadline of May 29, 2012, for Appellant to comply with the Board's order, and advised Appellant that if she failed to comply with or respond to the Board's order, her appeal might be dismissed without further notice.

¹ Decedent was a Fond du Lac (Chippewa) Indian. The probate number assigned to Decedent's case in the Department of the Interior's probate tracking system, ProTrac, is No. P000068067IP.

² Section 30.242 was redesignated as § 30.243 as part of the 2011 amendments to 43 C.F.R. Part 30. *See* 76 Fed. Reg. 7,500, 7,508 (Feb. 10, 2011) (interim final rule, confirmed by 76 Fed. Reg. 45,198 (July 28, 2011)).

The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellant received the Board's order on April 30, 2012.

The Board has received no response from Appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed but dismisses this appeal for failure to prosecute.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge